

# PASSED

## BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1146 ) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE  
 ) PLAN TO REDESIGNATE LAND FROM "FOREST" TO "MARGINAL LAND"  
 ) AND REZONING THAT LAND FROM "F-2/IMPACTED FOREST LANDS" TO  
 ) "ML/MARGINAL LAND", AND ADOPTING SAVINGS AND  
 ) SEVERABILITY CLAUSES (file PA 98-5149; Leith)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in September 1998, application no. PA 98-5149 was made for a minor amendment to redesignate tax lot 1000 of map 18-02-14, from "Forest" to "Marginal Land" and concurrently rezone the property from "F-2/Impacted Forest Lands" to "ML/Marginal Land"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing of March 16, 1999, and on that date recommended approval of the proposed amendment and rezoning; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lot 1000 of map 18-02-14, from "Forest" to "Marginal Land", such territory depicted on Plan Plot 483 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 1000 of map 18-02-14, is rezoned from "F-2/Impacted Forest Lands" (Lane Code 16.211) to "ML/Marginal Land" (Lane Code 16.214), such territory depicted on Rural Zoning Plot 483 and further identified as Exhibit "B" attached and incorporated herein.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "C" attached, in support of this action.

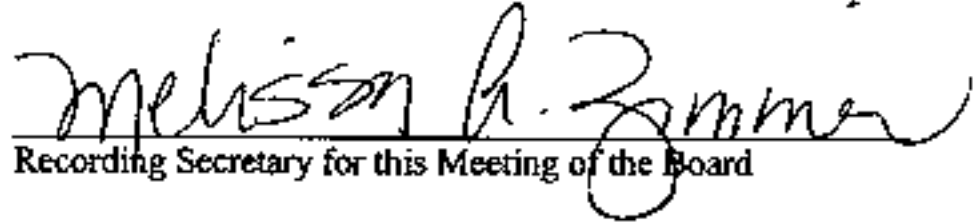
The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

ENACTED this 19<sup>th</sup> day of January, 2000.



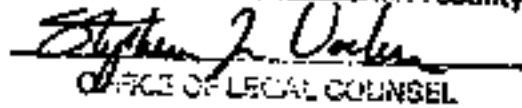
Chair, Lane County Board of County Commissioners



Recording Secretary for this Meeting of the Board

APPROVED TO ROOM

Date 12-27-99 Lane county



OFFICE OF LEGAL COUNSEL



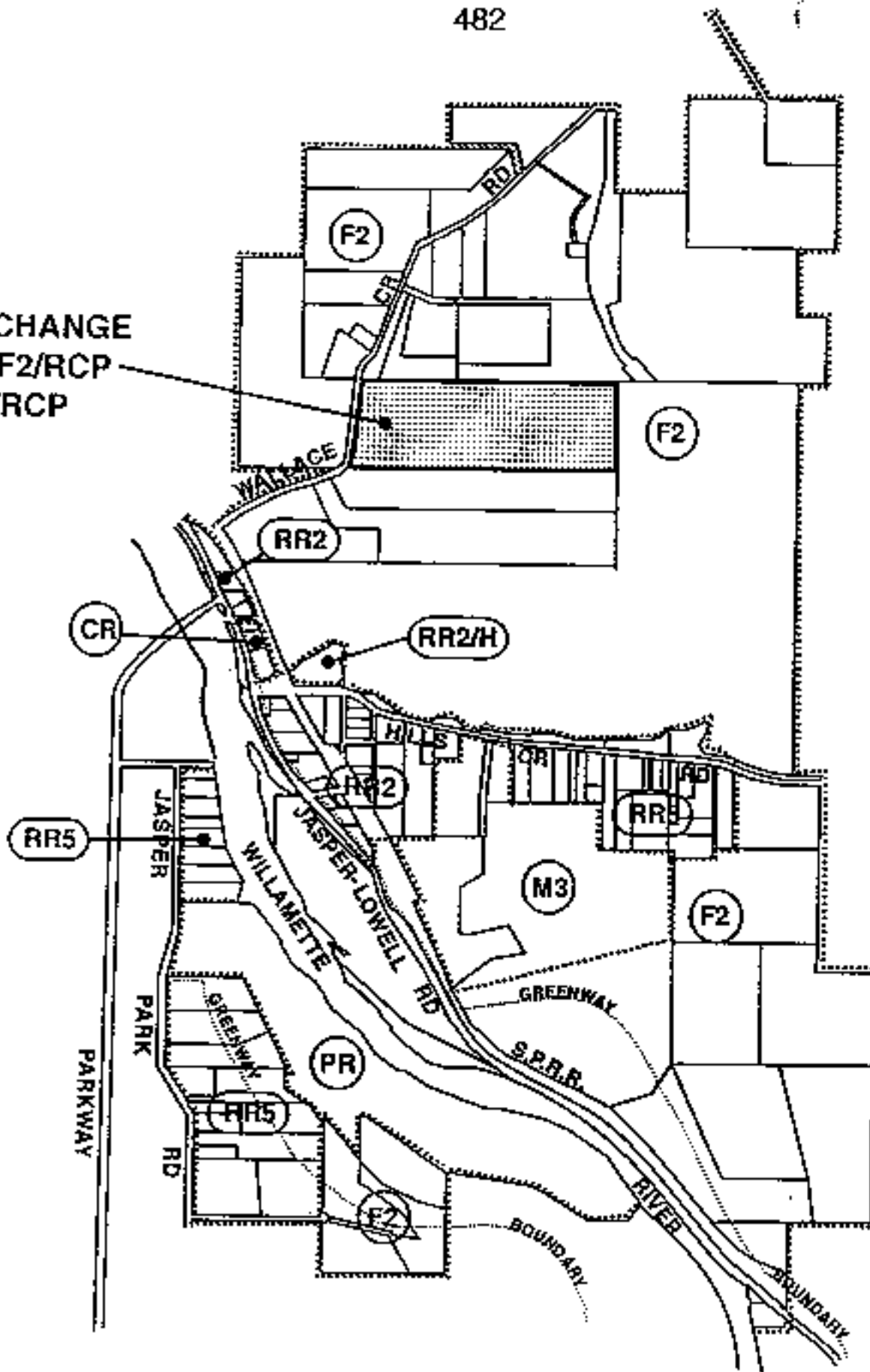
482

Exhibit "B"

Ord PA 1146

ZONE CHANGE  
FROM F2/RCP  
TO ML/RCP

472



493

484

lane county



# OFFICIAL ZONING MAP

## PLOT #483

Township Range Section

18 02 14

18 02 23

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # \_\_\_\_\_

REVISION # \_\_\_\_\_ ORD# \_\_\_\_\_ DATE \_\_\_\_\_ FILE # \_\_\_\_\_

**FINDINGS OF FACT  
FILE NO. PA 98-5149**

The following findings of fact and conclusions of law support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change for the "Subject Property."

Additional information is provided in the Applicant's Statement dated September 3, 1998, which is incorporated herein by reference.

**I. Summary of Issues**

This section includes a general overview of the amendment request and the primary issues associated with the proposal. The sources of information supporting these statements are shown in [brackets]. All page numbers and exhibit citations refer to the Applicant's Statement.

**General overview:**

1. The Oregon Revised Statutes, Statewide Planning Goals and the Rural Comprehensive Plan (RCP) allow areas with significant resource constraints or limitations to be designated as marginal land. The proposed amendment meets applicable marginal land requirements and will not affect any resource lands.
2. This application implements RCP Goal 4 Policy 3 by designating the Subject Property as Marginal Land, and zoning it ML. The plan provides for designating lands with significant resource constraints or limitations as marginal lands.
3. The current plan designation of the Subject Property as Forest Land is in error. Statewide Goal 2 requires the use of an adequate factual base in land use decision making. This amendment and zone change request shows that the Subject Property does not meet the state definition of forest land or warrants protection by the F-2 zone. The proposed marginal land zoning of ML can be provided an adequate water supply and public road access, and availability of all necessary services [page 9, paragraph 3].
4. The Subject Property consists of one legal lot and is an 43.39 acre parcel developed with a residence and assorted outbuildings [Exhibit "A"]. The majority of the site has gentle (under 10%) slopes to the east and south. Areas with slopes of approximately 20 percent are present in the eastern and southern portions of the Subject Property. The majority of the site is mowed grassland, with some riparian vegetation along Wallace Creek in the western portion of the site, Douglas fir along a portion of the site's southern boundary and Oregon white oak along the eastern boundary.

**Primary Issues:**

The application is consistent with State statutory requirements.

7. State law (ORS 197.247(1)(a)) specifies standards that must be met to designate land as marginal land. This application meets all of the requirements of this law. An affidavit has been submitted [Exhibit "H"] which certifies that the Subject Property has met the applicable farm income test for marginal lands. A professional forester has prepared a report [Exhibit "I"] stating the Subject Property meets the applicable forest income test for marginal land. Lane Council of Governments (LCOG) has completed a soils analysis [Exhibit "D" and page 5] which shows the Subject Property has a predominance of soils which have significant constraints for agricultural and forest uses, as required for marginal land sites.

**The application is consistent with Rural Comprehensive Plan policies and Lane Code provisions.**

8. The applicant has provided information that demonstrates that the application is consistent with applicable sections of the RCP and Lane Code [page 8, Section B; pages 9 and 10, Section C].

**The application is consistent with the Board of County Commissioners' interpretation and administration of Marginal Lands applications.**

9. The applicant has provided information that demonstrates that the application is consistent with the Board of County Commissioners' interpretation and administration of Marginal Lands applications [page 3, #3; Exhibit "I"].

10. The County staff and all voting members of the Lane County Planning Commission have recommended approval of this Marginal Lands application.

## **II. General Findings Relating to the Property and Application.**

1. This application is a plan amendment redesignating 43.39 acres of land from Forest Land to Marginal Land with concurrent rezoning from Impacted Forest Land (F-2) to Marginal Land (ML). These findings provide factual support for the proposed redesignation.
2. The Subject Property is designated as Forest Land, Goal 4 resources. The findings provided herein support a Marginal Land designation and therefore do not require exceptions to the statewide planning goals.
3. The Subject Property is identified as tax lot 1000 on Assessor's Map No. 18-02-14, on county Zoning Plot 483. It is an 43.39 acre tract on the east side of Wallace Creek Road, about ½ mile northeast of Jasper.
4. The Subject Property consists of a legal lot as confirmed by Lane County Legal Lot Verification PA 1035-97.
5. The Subject Property is developed with a single family dwelling, accessory buildings, subsurface sewage disposal system, well, landscaped yard and graveled driveway located on the western half of the property. A Site Plan [Exhibit "A"] depicts the existing shape of the Subject Property.
6. The Subject Property has gentle (under 10%) slopes to the east and south. Areas with slopes of approximately 20 percent are present in the eastern and southern portions of the site. The majority of the site is mowed grassland, with some riparian vegetation along Wallace Creek in the western portion of the site, Douglas fir along a portion of the site's southern boundary and Oregon white oak along the eastern boundary.
7. The Subject Property is provided the following public services:
  - Fire: Pleasant Hill Rural Fire Protection District
  - Police: Lane County Sheriff
  - Schools: Pleasant Hill School District #1
  - Sewer: Individual septic system
  - Water: Individual well
  - Access: Wallace Creek Road (County)
  - Electricity: EPUD
  - Telephone: US West Communications
  - Solid Waste: Glenwood Solid Waste Transfer Site
8. National Wetlands Inventory Map "Springfield 4" shows approximately 1 acre of the site (about 2 percent) in its northeast corner is classified as a jurisdictional wetland.

Leith Marginal Lands Findings

9. The Lane County Wildlife Inventory indicates the far western portion of the subject property is located in an Peripheral Big Game Range, while the remainder of the site is within a Major Big Game Range.

10. The area adjacent to Wallace Creek in the western portion of the subject property is within the 100 year flood plain of Wallace Creek, as identified in Panel 630 of the Flood Insurance Rate Map for Lane County, prepared by the Federal Emergency Management Agency in 1985.

11. No historical, archaeological, scenic or other resource features have been identified on the Subject Property by county inventories.

12. Four of the six parcels that border the Subject Property are developed with dwellings [page 6] and are north and south of the site. No industrial or government forest managed tracts are in the vicinity.

13. Wallace Creek Road, a county road, borders the entire western boundary of the Subject Property. One property is directly across Wallace Creek Road from the site. This undeveloped parcel is zoned F-2, and is bordered on its north and south sides by F-2 zoned parcels which are each developed with single family residences.

14. A soils map and report prepared by LCOG for this application shows the property has the following soil classifications. "Ag" refers to Soil Conservation Service (SCS) agricultural class, while "Forest" refers to the forest capability rating for Douglas Fir.

Map#	Soil type	Ag	Forest	Area (ac.)	% of site
41C	Dixonville silty clay loam (3 - 12%)	3	152	3.90	9.1
45C	Dupee silt loam (3 - 20%)	3	0	1.81	4.2
52B	Hazelair silty clay loam (2 - 7%)	3	0	0.01	0.1
52D	Hazelair silty clay loam (7 - 20%)	4	0	0.39	0.9
102C	Parther silty clay loam (2 - 12%)	6	0	11.93	27.9
108C	Pailomath cobbly silty clay (3 - 12%)	6	0	10.36	24.2
130	Waldo silty clay loam	3	0	14.35	33.6

15. The Subject Property does not have a predominance of agricultural Class I-IV soils nor is it commercial forest land or other agricultural or forest land as defined by Goals 3 and 4.

16. Small portions of the Subject Property are wooded, with an area of Douglas fir and other evergreen species on the southern boundary, and areas of deciduous species including Oregon white oak and cottonwood on the eastern and western boundaries of the site. Commercial forest use of the Subject Property is limited as it has a small area (approximately 4 acres in size) with soils suitable for forest use. Soils on the remainder of the site are unsuitable for timber production due to their shallow depth and low moisture retention.

17. The Subject Property is not irrigated and has a predominance of Class VI soils, defined by SCS as having severe limitations for soil cultivation. The Subject Property is substantially limited for agricultural production due to its lack of irrigation, soil constraints, the presence of small and irregularly shaped areas that are suitable for agricultural use, and limited livestock grazing potential [page 6, paragraph 2].

18. The Subject Property is not located within a water quantity or quality limited area as identified by Lane Manual 13.010.

19. The Lane County Land Management planning staff reviewed the applicant's statement and extensive supporting evidence, and concurred with the proposed Marginal Land designation and ML Marginal Land zone for the site.

20. On March 16, 1999, the Lane County Planning Commission conducted an evidentiary public hearing. No one spoke in opposition to the request.

21. The Planning Commission voted unanimously to amend the Rural Comprehensive Plan designation of the entire Subject Property from Forest to Marginal Land. The Planning Commission also voted unanimously to recommend that the Board of County Commissioners rezone the entire Subject Property to ML.

### **III. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria**

Lane Code 16.400(6)(h)(iii) provides the Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

**(aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.**

1. The Board finds this application proposes to amend the Rural Comprehensive Plan from Forest Land to Marginal Land with evidence that addresses the applicable requirements of the Lane Code, Rural Comprehensive Plan policies, Statewide Planning Goals and Oregon Administrative Rules.

2. ORS 197.247(1)(a) authorizes counties to designate land as marginal land, subject to the following standards:

*(a) The proposed marginal land was not managed, during three of the five calendar years preceding January 1, 1983, as part of a farm operation that produced \$20,000 or more in annual gross income or a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income; and...*

The applicant has submitted an affidavit from the daughter of the deceased owners of record during the prescribed statutory period. To the best of her knowledge, from 1978 until 1983 her parents did not manage the property as part of a farming operation that produced \$20,000 or more in gross annual income, or as part of a forest operation capable of producing, over the growth cycle, of \$10,000 in annual gross income.

Therefore, the Subject Property has not produced \$20,000 in gross farm income between 1978 and 1983, nor is it capable of producing \$10,000 in annual gross forest income over the growth cycle. The Board finds the proposed plan amendment and zone change is consistent with this standard.

*(b) The proposed marginal land also meets at least one of the following tests:*

*A) At least 50 percent of the proposed marginal land plus the lots or parcels at least partially located within one-quarter mile of the perimeter of the proposed marginal land consists of lots or parcels 20 acres or less in size on July 1, 1983;*

*B) The proposed marginal land is located within an area of not less than 240 acres of which at least 60 percent is composed of lots or parcels that are 20 acres or less in size on July 1, 1983; or*

*C) The proposed marginal land is composed predominantly of soils in capability classes V through VIII in the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983, and is not capable of producing 85 cubic feet of merchantable timber per acre per year in those counties west of the summit of the Cascade Range.*

The Board finds the Subject Property has approximately 22.93 acres (52.1 percent) of Class VI soils, and is capable of producing 15.9 cubic feet of merchantable timber per acre per year. Therefore, the Board finds the proposed plan amendment and zone change meets test C) above.

**(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:**

- (i-i) necessary to correct an identified error in the application of the Plan; OR**
- (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR**
- (iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR**
- (iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR**
- (v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.**

3. The Board finds this amendment implements (iv-iv), specifically, RCP Goal 4 Policy 3 that provides for designating forest lands as Marginal Lands, when the Subject Property meets the aforementioned ORS requirements and is consistent with other RCP policies.

RCP Goal 5 Flora and Fauna Policy 11 directs the Oregon Department of Fish and Wildlife (ODFW) to recommend an overall residential density for the protection of big game. The proposed RCP amendment and zone change requests a residential density of one dwelling per 20 acres. The applicant intends to construct one additional residence on the subject property. The Board finds this density is consistent with currently applicable big game guidelines.

RCP Goal 5 Flora and Fauna Policy 12 requires that if uses are identified that would conflict with Goal 5 resources, an evaluation of the economic, environmental and energy consequences should be conducted to determine the level of protection necessary for the resource. There are no sensitive wildlife habitat areas inventoried on the subject property. In

addition, there are no other Goal 5 resources that have been identified or are known to exist on the site. Therefore, the Board finds a Goal 5 ESEE analysis is not required.

Lane Code 16.004(4) and RCP Goal 5 Water Resources Policy 3 require a demonstration of an adequate water supply to support the proposed use. LC 13.010(2)(a)(1) does not identify the Wallace Creek watershed as an area with a limited quantity or quality of groundwater. The proposed Marginal Lands zone will allow 20 acre parcels on the subject property, which will permit the creation of one additional parcel and homesite in the eastern portion of the site. An aquifer test is not required for parcels greater than 20 acres in size (LC 13.050(13)(c)(1)).

RCP Goal 11 Public Facilities and Services Policy 6j requires that Marginal Lands have a service level consistent with the service level for Residential Lands outside a Community designation. Rural Residential Policy 6e requires the availability of schools, on-site sewage disposal, an individual water supply system, electrical and telephone service, a rural level of fire and police protection, and reasonable access to solid waste disposal facilities. As previously indicated in the applicant's statement, the Board finds the Subject Property receives a full range of rural residential services necessary to serve the maximum density allowable by the ML zone.

**LANE CODE 16.400(8):**

**(a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:**

**(I) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.**

4. The Board finds this application proposes a minor amendment to the Plan Diagram from Forest Land to Marginal Land. SCS soil mapping shows the Subject Property consists predominantly of agriculture Class VI soils with no commercial forest capability. Therefore, no exception to the statewide planning goals is required.

**(c) Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:**

**(i) A complete description of the proposal and its relationship to the Plan.**

5. The Board finds the required description has been previously provided. The proposed use of the Subject Property is for marginal land development at a zoning of one dwelling per 20 acres. A Marginal Land designation is applied to the property through an evaluation that the Subject Property qualifies as the same as previously described.

**(ii) An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.**

6. The Board finds the required analysis is addressed above.

**(iii) An assessment of the probable impacts of implementing the proposed amendment, including the following:**

**(aa) Evaluation of land use and patterns of the area of the amendment;**

7. The Board finds an identification and analysis of the surrounding land use pattern has been adequately provided.

**(bb) Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply and sewage disposal;**

8. The Board finds the property will be served by on-site individual sewage and water systems and accessed from a county public road. The Board finds the applicant's evidence shows these facilities are adequate to serve the proposed use. All other rural public facilities and services, including fire protection and utility service, are available to serve the Subject Property.

**(cc) Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable;**

9. The Board finds the RCP does not identify any historic, archaeological or sensitive wildlife habitat sites on or near the Subject Property. The county's wildlife inventory shows the property is within a Major and Peripheral Big Game Range. No apparent conflict exists with Goal 5 resources given the relatively low density of the proposed development on the Subject Property, and therefore the Board finds an ESEE analysis is not applicable to this amendment.

**(dd) Natural hazards affecting or affected by the proposal;**

10. The Board finds that wetlands and 100 year flood plain areas are located in the western most portion of the Subject Property, adjacent to Wallace Creek. The Board finds that

no development allowed through this amendment will be permitted in hazard areas on the Subject Property as they are located on the portion of the site which is presently developed.

**(ee) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;**

11. The Board finds this criterion is not applicable since the proposed amendment is for a marginal lands designation.

**(ff) For a proposed amendment to nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;**

12. The Board finds this criterion is not applicable because the proposed amendment is for a marginal lands designation.

**(gg) For a proposed amendment to a Nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, "Working Paper: Marginal Lands" (Lane County, 1983).**

**Land meeting the following criteria may be designated as marginal land:**

- a. **The land was not managed during any three calendar years between Jan. 1, 1978 and Jan. 1, 1983, as part of a farm operation that produced \$20,000 or more in annual gross income or a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income. Statistical information compiled by Oregon State University Extension Service or other similar empirical data may be used to demonstrate income capability; AND**

13. The Board finds the affidavit submitted by the daughter of the deceased owners of record during the prescribed statutory period provides adequate proof that the Subject Property did not produce \$20,000 in gross farm income between 1978 and 1983, nor is it capable of producing \$10,000 in annual gross forest income over the growth cycle.

- b. **The land meets at least one of the following tests:**
- i) **At least 50 percent of the area of the proposed marginal land plus the lots or parcels at least partially located within one-quarter mile of the perimeter of the proposed marginal land consists of lots or parcels 20 acres or less in size on July 1, 1983. Lands within an adopted Urban Growth Boundary shall not be included in this calculation. Adjacent lots and parcels having common ownership shall be considered as being one single lot or parcel provided however that lots or parcels separated by a public road shall not be considered as being adjacent; OR**
  - ii) **The proposed marginal land is located within an area of not less than 240 acres of which at least 60 percent of the area is composed of lots or parcels that are 20 acres or less in size on July 1, 1983. Lands within an adopted Urban Growth Boundary or within an area for which an exception to goal 3 or 4 has been approved shall not be included in the calculation. Adjacent lots and parcels having common ownership shall be considered as being one single lot or parcel provided however lots or parcels separated by a public road shall not be considered as being adjacent; OR**
  - iii) **The proposed marginal land is composed predominantly of soils in capability classes V through VIII in the Agricultural Capability Classification System used by the U.S. Department of Agriculture Soil Conservation Service and is not capable of producing eighty five cubic feet of merchantable timber per acre per year.**

14. The Board finds the Subject Property is composed predominantly of soils in SCS capability class VI, and is incapable of producing 85 cubic feet of merchantable timber per acre per year. For these reasons, the Board finds the Subject property meets the requirements of section iii) above.

**IV. Findings and Conclusions Relating to Lane Code 16.252  
Rezoning Criteria.**

**Lane Code 16.252(2) Criteria. Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.**

1. The Board finds the proposed rezoning is consistent with the purpose of Chapter 16, Lane County Land Use and Development Code and properly implements the Marginal Land designation of the Lane County Rural Comprehensive Plan.
2. The Board further finds rezoning the Subject property from F-2 to ML is consistent with Lane Code 16.003. This section of the code sets forth 14 broadly-worded purpose statements that include a provision to insure development is commensurate with the character and physical limitations of the land.
3. The Board finds the public interest is appropriately served by recognizing that the Subject Property has limited resource value. The Marginal Land designation is properly applied to lands with limited farm/forest capability.
4. The Board finds the proposed ML Zone is compatible with the overall development/density pattern of the lands next to the Subject Property to the north and south.
5. The Board finds the proposed ML Zone is consistent with the purpose of the Marginal Lands Zone District and provides opportunities for people to live in a rural area while conducting farm or forest operations, and implements Plan policies related to marginal lands.
6. As previously demonstrated, the Board finds the application is consistent with applicable RCP policies.

## **V. Findings and Conclusions Relating to the Statewide Planning Goals**

The Board finds the subject application is consistent with all applicable Statewide Planning Goals. For purposes of the analysis of this section the following applicable statewide planning goal statements have been summarized. The Oregon Land Conservation and Development Commission Goals and Guidelines are incorporated herein by reference, except as noted.

### **GOAL 1 CITIZEN INVOLVEMENT**

Requires citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Public notification as mailed public notice was sent by Lane County to affected agencies, including the Department of Land Conservation and Development and owners of record within 500 feet of the Subject Property. The Lane County Planning Commission and Board of Commissioners have conducted two public hearings to receive comments on the plan amendment and zone change request.

### **GOAL 2 LAND USE PLANNING**

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions and requires an adequate factual base be developed to support such decisions. The subject application is a minor change as it does not have significant effect beyond the immediate area of change and is based on special studies or information. The public need and justification for the particular change has been established. Lane County has adopted a comprehensive land use plan amendment process with specific criteria that must be addressed to justify a minor change. The Board finds the application is in substantial compliance with LC 16.400, Rural Comprehensive Plan Amendments and complies with the applicable provisions of Goal 2.

### **GOAL 3 AGRICULTURAL LANDS**

Goal 3 strives to preserve and maintain agricultural lands. In western Oregon agricultural land consists of predominantly Class I -IV soils as identified by the Soil Conservation Service and other lands that are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes that are necessary to permit farm practices to be undertaken on adjacent or nearby lands, will be included as agricultural lands.

As previously documented, the Board finds that more than half of the Subject Property has Class VI soils and does not form other lands necessary to permit farming practices. The Lane County Policies Component of the General Plan, Goal 3: Agricultural Lands, Policy 14 states: "Land may be designated as marginal land if it complies with the following criteria: a.

The requirements of ORS 197.247, and b. Lane County General Plan Policies, Goal 5, Flora and Fauna, policies numbered 11 and 12." As previously stated, the Subject Property meets these ORS and County plan policy requirements.

#### **GOAL 4 FOREST LANDS**

Goal 4 requires the preservation and conservation of forest land for forest uses. Forest land is defined by Statewide Planning Goal 4 as: *1) lands composed of existing and potential forest lands which are suitable for commercial forest uses; 2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation; 3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use; 4) other forested lands in urban and agricultural areas which provide urban buffers, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.*

The Board finds the LCOG and SCS soils information and an on-site analysis by a professional forester shows only a small portion of the Subject Property (approximately 4 percent) has a forest capability. No evidence has been presented that shows Subject Property has had a prior forest use or capability as defined by Goal 4. The characteristics that define forest lands have been previously addressed. The Subject Property is not forest land and therefore no exception to Goal 4 is required.

Regarding the "other forest uses" provision of Goal 4, the Board finds that:

- a) The site is not suitable for commercial forest uses as identified by a professional forester;
- b) The site is not needed for watershed protection, wildlife and fisheries habitat and recreation;
- c) There are no extreme conditions of climate, soil and topography present that require the maintenance of vegetative cover irrespective of use; and
- d) No County inventories or other information has identified the need to maintain the site as forest land to provide urban buffers, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors, or recreational use, as required by Goal 4.

Therefore, based on an analysis of the factors discussed above and earlier in this statement, the Board finds the Subject Property is not forest land required for conservation by Goal 4, and an exception to Goal 4 is appropriate.

#### **GOAL 5 OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES**

Goal 5 requires the conservation of open space and the protection of numerous natural, cultural, historic, scenic resources and wilderness area characteristics. The goal as amended by OAR 660-23-000 contains policies and procedures for local land use planning concerning a variety of resources listed below. This new administrative rule requires evaluation of these resources. OAR 660-23-10 and -20 includes definitions, standards, and specific rules applicable to each Goal 5 resource.

The following Goal 5 resources are addressed in an inventory done as part of a County-wide legislative planning process and are not applicable to this request: Federal wild and scenic rivers, Oregon scenic waterways, approved Oregon recreational trails, natural areas, wilderness areas, mineral and aggregate resources, energy sources, historic resources, open space, and scenic views and sites.

The Board finds the following factors and responses are deemed applicable to this request.

1) Riparian corridors, wetlands, and wildlife habitat: Part of the area adjacent to Wallace Creek in the western portion of the Subject Property contains riparian vegetation and may be a wetland. The Board finds that development permitted by this application will not significantly affect this area, as it is within the portion of the site which is presently developed. No wildlife habitat values have been specifically identified or inventoried on the Subject Property. The Board finds the one additional dwelling which could be allowed through the application will not significantly affect whatever wildlife habitat values that are present on the Subject Property.

2) Groundwater resources: The site and adjacent lands are not inventoried by Lane County as part of a critical quantity or quality groundwater area.

The Board finds the proposed development on the Subject Property will not impact these Goal 5 resources.

## **GOAL 6 AIR, WATER AND LAND RESOURCE QUALITY**

The purpose of Goal 6 is to maintain and improve the quality of the air, water and land resources of the State. The Board finds this Goal is generally implemented during the comprehensive planning process. As this goal pertains to site specific development, it requires that adequate protection measures are taken to assure the retention of air, water and land quality. The Board finds the Subject Property will be served by adequate on-site water and sanitation facilities, as previously documented. One additional residence on the Subject Property will not produce or discharge any product or by-product that would degrade such resources.

#### **GOAL 7 AREAS SUBJECT TO NATURAL DISASTERS OR HAZARDS**

The purpose of Goal 7 is to protect life and property from natural hazards. The Subject Property has natural hazards, consisting of areas with wetlands and floodplain. The Board finds life and property present on the site will receive adequate protection from natural hazards through compliance with public and private regulations. The Subject Property will comply with the requirements imposed by LC 16.244, the /FP combining zone; and wetland regulations.

#### **GOAL 8 RECREATIONAL NEEDS**

Goal 8 is to satisfy the recreational needs of the State and visitors to it. The Board finds the proposed change from Forest Land to Marginal Land will have no impact to Goal 8.

#### **GOAL 9 ECONOMY OF THE STATE**

The purpose of Goal 9 is to diversify and improve the economy of the State. The Board finds this goal is primarily applicable to commercial and industrial development and is not applicable to this request.

#### **GOAL 10 HOUSING**

Goal 10 is intended to provide for the housing needs of the citizens of the State. The Board finds that this goal is properly implemented during the comprehensive plan and/or periodic review legislative processes and is therefore not applicable to this request.

#### **GOAL 11 PUBLIC FACILITIES AND SERVICES**

The purpose of Goal 11 is to provide for the planning and development of a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. A full range of rural services necessary to serve the use exists. The existing use will not require any public services beyond the level of those that exist.

#### **GOAL 12 TRANSPORTATION**

The purpose of Goal 12 is to provide and encourage a safe, convenient and economic transportation system. The Board finds Goal 12 is not oriented toward specific land use actions such as this. It is intended to consider area-wide modes of transportation and is implemented at the comprehensive plan stage. The property is served by Wallace Creek Road, a county road. The Board finds the development permitted by this application (one additional dwelling) would not appear to cause any detrimental effect to the local road system or change the Level of Service.

The May 1995 Transportation Planning Rule (TPR) applies to this request, as it was submitted before the present TPR was adopted in November 1998. This request is consistent with applicable portions of the 1995 TPR, specifically OAR 660-12-065(3)(b). Future development of the Subject Property with one additional dwelling will require the existing access drive to be widened and extended on the site. Construction of these improvements is consistent with the aforementioned section of OAR, and will be part of the conditions of approval required as part of the land partition process.

### **GOAL 13 ENERGY CONSERVATION**

The Board finds this Goal is more appropriately applied at the comprehensive plan phase and therefore is not applicable to this application.

### **GOAL 14 URBANIZATION**

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. The Board finds the density and character of development proposed for the Subject Property is rural. The type and density of development proposed for the site will not require urban levels of public service, nor will it generate urban levels of public service demands. The Board finds this request is consistent with Goal 14.

### **GOALS 15 - 18**

The Board finds these Goals are not applicable to this application as they are geographically oriented to specific areas that are not on the Subject Property.

## VI. CONCLUSION

The Board finds that the subject 43.39 acre tract qualifies for a Marginal Land plan designation and is appropriately zoned Marginal Lands ML.

The Board concludes the Subject Property is in an area that is primarily composed of soils that are not suitable for agriculture or forest use, and able to be adequately served by the rural services available at the proposed density of development.

The Board further concludes this application properly identifies and implements the proper plan designation and zone district, and is consistent with the intent and purpose of the Rural Comprehensive Plan and county policies.

The Board concludes this application for a minor plan amendment and rezoning addresses and satisfies all applicable criteria. The Subject Property has been evaluated within the context of the Rural Comprehensive Plan, Lane Code and Statewide Planning Goals. The Board concludes the Subject Property consists predominantly of land that is constrained for agriculture or forest uses. The Board concludes this application will have no significant adverse impact on existing or planned uses in the area. It is therefore appropriately designated as marginal land.

Finally, the Board concludes that based on the extensive documentation and factual evidence presented in the Applicant's statement, including Exhibits, supplemental information, evidence received at public hearings and made part of the record, and findings provided herein, the plan amendment and zone change conforms with all applicable criteria to justify a redesignation from Forest Land to Marginal Land and rezoning from F-2 Impacted Forest Land to ML Marginal Lands.



marginal land site:

- \* as part of a farm operation that produced \$20,000 in gross income;
- \* was not managed between 1978 and 1983 as a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual income;
- \* has a predominance of agricultural Class V - VIII soils; and
- \* is consistent with applicable RCP policies.

Marginal Lands do not require an exception to the Statewide planning goals. A Marginal Lands designation is properly implemented by the ML zone. The applicant seeks to develop the subject property with one additional dwelling on a 20 acre parcel in the eastern portion of the site.

### Site Characteristics

The majority of the subject property is open grassland which slopes gradually to the east, improved with one dwelling and accessory structures in its western portion. Areas with slopes of approximately 20 percent are present in the eastern and southern portions of the site. Wallace Creek traverses the western portion of the site from north to south, with riparian vegetation present on the creek banks. Wallace Creek is not a Class I stream, and is seasonal in nature. Two small wooded areas are present along the southern and eastern edges of the subject property. The remainder of the site is a mowed grassland, excepting the area surrounding the dwelling and bordering Wallace Creek.

### Primary Issues

#### 1) Consistency with State statutory requirements.

The applicant has provided an affidavit from the daughter of the late owners of the subject property. This affidavit indicates the subject property was not managed as part of a farm operation that produced \$20,000 or more in gross annual income, and was not part of a forest operation capable of producing, over the growth cycle, of \$20,000 or more of annual gross income for any of the five years preceding January 1, 1983. The subject property has 52.1 percent, or 22.3 acres, of Class VI nonagricultural capable soils, as determined by a L-COG soils analysis.

A report has been submitted by a professional forester that the subject property is not a forest parcel capable of producing \$10,000 or more in annual gross income over the growth cycle. The professional forester has estimated the subject property is capable of producing \$560 in gross annual income over a 50 year growth cycle, assuming 1983 prices for Douglas fir and assuming the portion of the subject property suitable for timber production was a fully mature stand that was clearcut. Virtually

all (90.9%) of the subject property has a forest capability of less than 85 cubic feet per acre per year.

This Marginal Lands proposal is consistent with ORS 197.247.

**2) Consistency with Rural Comprehensive Plan policies and Lane Code provisions.**

Plan policies applicable to this request include: a) demonstration that the proposed residential density in a big game range area will not conflict with wildlife resources or other identified Goal 5 resources that may require protection; and b) demonstration that adequate public facilities and services and an adequate water supply exists to serve the intended use.

- a) The subject property is located within a Major and Peripheral Big Game Range. A density of one dwelling per 20 acres on gently sloping grassland is consistent with the general land use pattern of the immediate area to the north and south, and will not conflict with big game management. No significant wildlife habitat, sensitive sites, or other Goal 5 resources have been inventoried on the subject property or adjacent lands.
- b) The subject property receives all public services necessary to serve the proposed use, and is not located within a quantity or quality limited groundwater area as identified by Lane Code 13. 010(2).

The applicant has demonstrated that the proposed amendment and zone change is consistent with all applicable RCP policies and Lane Code standards.

**3) Consistency with the Board of County Commissioners interpretation and administration of Marginal Lands applications.**

In February of 1997, the Board reviewed the state Marginal Lands statues and provided further direction and guidelines for the review of Marginal Lands land use applications.

Issues that are especially pertinent to this application include forest management and price data. The applicant's forest analysis assumes approximately 4 acres of the subject property has soils suitable for timber production, and that 80% of this area could be planted in timber. Soils on the remainder of the subject property are unsuitable for timber production due to their shallow depth, and low moisture retention. The analysis also employs the 1983 timber price of \$220 per thousand board feet (MBF) for Douglas fir and uses a 50 year growth cycle, as specified by the Board guidelines.

### III. GENERAL INFORMATION

#### A. LOCATION AND SITE DESCRIPTION

Assessor's Map No.	18-02-14, Tax lot 1000
Zoning	F-2/RCP
Plot No.	483
Area	43.39 acres
Tax Code	001-13

**Location:** The Subject Property is located about  $\frac{1}{2}$  mile northeast of Jasper on the east side of Wallace Creek Road. The subject property has a site address of 36840 Wallace Creek Road.

**Site:** The Subject Property is a 43.39 acre rectangular parcel, with a depth ranging from approximately 2200 to 2387 feet and approximately 800 feet of frontage on Wallace Creek Road, which borders the site on the west.

The majority of the site has gentle (under 10%) slopes to the east and south. Areas with slopes of approximately 20 percent are present in the eastern and southern portions of the site. The majority of the site is mowed grassland, with some riparian vegetation along Wallace Creek in the western portion of the site, Douglas fir along a portion of the site's southern boundary and Oregon white oak along the eastern boundary. See Exhibit "A", Plot Plan.

**Improvements:** The subject property is developed with a single family dwelling, accessory buildings, subsurface sewage disposal system, well, landscaped yard and graveled driveway located on the western half of the property.

**Legal Lot Status:** The site is a legal lot, as confirmed by Lane County Land Management staff through Legal Lot Verification PA 1035-97, issued on April 17, 1997 (Exhibit "B").

**Soils:** Soil Conservation Service (SCS) map sheet #92, attached as Exhibit "C", provides a graphic depiction of the soil classifications on the subject property. A soils map and report was prepared by L-COG for the subject property (Exhibit "D"). Its results are below. "Ag" refers to SCS agricultural class, while "Forest" refers to the forest capability rating for Douglas Fir in cubic feet per acre per year.

Leith Plan Amendment/Zone Change

Page 5

Map#	Soil type	Ag	Forest	Area (ac.)	% of site
41C	Dixonville silty clay loam (3 - 12%)	3	152	3.90	9.1
45C	Dupee silt loam (3 - 20%)	3	0	1.81	4.2
52B	Hazelair silty clay loam (2 - 7%)	3	0	0.01	0.1
52D	Hazelair silty clay loam (7 - 20%)	4	0	0.39	0.9
102C	Panther silty clay loam (2 - 12%)	6	0	11.93	27.9
108C	Philomath cobbly silty clay (3 - 12%)	6	0	10.36	24.2
130	Waldo silty clay loam	3	0	14.35	33.6

The L-COG data is not as precise as these figures may indicate, as it totals to 42.75 acres instead of the 43.39 acre size of the parcel. The 0.64 acre discrepancy does not make a significant difference in the conclusions that can be made from the data. The L-COG data indicates 3.9 acres of the site (9.1 percent) has a forest soil capability, defined as greater than 50 cubic feet/acre/year, and 20.46 acres of the site (47.9 percent) has an agricultural soil capability, defined as class I - IV soils.

**Wetlands:** National Wetlands Inventory Map Springfield 4, attached as Exhibit "E", indicates approximately 1 acre of the site (about 2 percent) in its northwest corner is classified as a jurisdictional wetland. No actions which would or could be allowed as part of this request will affect this area.

**Wildlife:** The Lane County Wildlife Inventory indicates the far western portion of the subject property is located in an Peripheral Big Game Range, while the remainder of the site is within a Major Big Game Range. See Exhibit "F".

**Hazards:** The area adjacent to Wallace Creek in the western portion of the subject property is within the 100 year flood plain of Wallace Creek, as identified in Panel 630 of the Flood Insurance Rate Map for Lane County, prepared by the Federal Emergency Management Agency in 1985 (Exhibit "G"). No development allowed through this amendment will take place in this flood hazard area, as it is within the portion of the subject property which is presently developed.

**Other Resources:** No historic, archaeological, scenic or other resource features have been identified on the subject property or by County inventories.

**Farm/Forest Deferral:** Assessment records indicate the subject property does not receive either a farm or forest deferral.

### B. SURROUNDING AREA AND ZONING

The subject property is located in an area consisting of rural residential uses to the north and south, undeveloped land to the east, and another undeveloped parcel to the west, across Wallace Creek Road. Wallace Creek Road, an asphalt surfaced, two-lane County road, borders the site on its western edge. The subject property and all parcels which adjoin it are zoned F-2 Impacted Forest Land. Across Wallace Creek Road to the west of the site is a 31.37 acre wooded undeveloped parcel (18-02-14, TL 1001) which is zoned F-2. Across Wallace Creek Road to the northwest of the subject property is an open and wooded 2.67 acre parcel (18-02-14, TL 1100) which is developed with a single family residence and zoned F-2.

On the north the subject property is bordered by four parcels. Tax lot 1200 is 2.06 acres in size, has grassland and riparian vegetation, and is developed with a single family residence. Tax lot 902 is an open grassland which is undeveloped and 4.73 acres in size. Tax lot 200 is also an open grassland, developed with a single family residence and 14.79 acres in size. Tax lot 201 is 56.22 acres in size, the majority of which is cleared grassland, and is developed with a single family residence.

One parcel (18-02-13, TL 100) borders the site on the east. This entire parcel is over 500 acres in size, with the portion next to the subject property approximately 65 acres in size, primarily wooded with deciduous species and undeveloped, and zoned F-2.

One parcel borders the site on the south. Tax lot 1303 is 19.4 acres in size, part wooded and part grassland, zoned F-2, and is developed with a single family residence. Another parcel is located to the southwest, across Wallace Creek Road from the subject property. This parcel (18-02-13, TL 1900) is 35.84 acres in size, wooded and developed with a single family residence, and zoned F-2. See Exhibit "L", Zoning map #483 and Exhibit "M", assessor's map 18-02-14.

### C. SERVICES

Fire	Pleasant Hill Rural Fire Protection District
Police	Lane County Sheriff
Schools	Pleasant Hill School District #1
Sewer	Individual septic system
Water	Individual well
Access	Wallace Creek Road (County)
Electricity	EPUD
Telephone	US West Communications
Solid Waste	Glenwood Solid Waste Transfer Site

#### IV. APPROVAL CRITERIA AND ANALYSIS

The following standards are applicable to the proposed plan amendment and zone change.

##### A. Marginal Lands Criteria ORS 197.247 (1991 Edition).

ORS 197.247(1)(a) authorizes counties to designate land as marginal land, subject to the following standards:

(a) The proposed marginal land was not managed, during three of the five calendar years preceding January 1, 1983, as part of a farm operation that produced \$20,000 or more in annual gross income or a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income; and...

The applicant has submitted an affidavit, attached as Exhibit "H", from the daughter of the deceased owners of record during the prescribed statutory period. To the best of her knowledge, from 1978 until 1983 her parents did not manage the property as part of a farming operation that produced \$20,000 or more in gross annual income, or as part of a forest operation capable of producing, over the growth cycle, of \$20,000 in annual gross income.

Her parents sold a limited amount of hay and cattle raised on the property. To the best of her knowledge, these operations were considered a hobby and produced a relatively small return, which was not the primary source of family income.

Therefore, the subject property has not produced \$20,000 in gross farm income between 1978 and 1983, nor is it capable of producing \$10,000 in annual gross forest income over the growth cycle. The proposed plan amendment and zone change is consistent with this standard.

(b) The proposed marginal land also meets at least one of the following tests:

A) At least 50 percent of the proposed marginal land plus the lots or parcels at least partially located within one-quarter mile of the perimeter of the proposed marginal land consists of lots or parcels 20 acres or less in size on July 1, 1983;

B) The proposed marginal land is located within an area of not less than 240 acres of which at least 60 percent is composed of lots or parcels that are 20 acres or less in size on July 1, 1983; or

C) The proposed marginal land is composed predominantly of soils in capability classes V through VIII in the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983, and is not capable of producing 85 cubic feet of merchantable timber per acre per year in those counties west of the summit of the Cascade Range.

As stated earlier in Exhibit "D", the subject property has approximately 20.46 acres (47.9 percent) of agricultural Class 3 or 4 soils, and approximately 3.9 acres (9.1 percent) of soils with any forest capability.

In 1984, Lane County developed productivity standards for the F-2 zone to determine the minimum acreage required to produce \$10,000 in annual gross income for soils with different potential yields. These standards were adopted by LCDC as part of the Rural Comprehensive Plan, but have since been replaced by new Oregon Administrative Rules regarding minimum parcel size and annual gross income. However, they still provide another measure of forest capability. The subject property contains less than one percent of the acreage necessary to satisfy the \$10,000 standard, using 1982 Douglas fir timber prices.

#### **B. Lane County Rural Comprehensive Plan**

The following RCP policies are applicable to this request.

RCP Goal 4, Policy 3 provides that lands which satisfy the requirements of ORS 197.247 and any applicable County policies may be designated as Marginal Lands. As previously discussed, the subject property qualifies as Marginal Land in accordance with the provisions of ORS 197.247 (1991 Edition).

RCP Goal 5, Flora and Fauna Policy 11 directs the Oregon Department of Fish and Wildlife (ODFW) to recommend an overall residential density for the protection of big game. The policy directs the County to work with ODFW to prevent conflicts between development and Big Game Range through land use regulation in resource areas, siting requirements and similar activities which are part of the County's rural resource zoning program.

The subject property is located within both a Major and Peripheral Big Game Range by the Lane County Wildlife Inventory. The proposed RCP amendment and zone change requests a residential density of one dwelling per 20 acres. The applicant intends to construct one additional residence on the subject property; a density that is consistent with currently applicable big game guidelines.

RCP Goal 5, Flora and Fauna Policy 12 requires that if uses are identified that would conflict with Goal 5 resources, an evaluation of the economic, environmental and energy consequences should be conducted to determine the level of protection necessary for the resource. There are no sensitive wildlife habitat areas inventoried on the subject property. In addition, there are no other Goal 5 resources that have been identified or are known to exist on the site. Therefore, a Goal 5 ESEE analysis is not required.

Lane Code 16.004(4) and RCP Goal 5, Water Resources Policy 3 require a demonstration of an adequate water supply to support the proposed use. LC 13.010(2)(a)(I) does not identify the Wallace Creek watershed as an area with a limited quantity or quality of groundwater. The proposed Marginal Lands zone will allow 20 acre parcels on the subject property, which will permit the creation of one additional parcel and homesite in the eastern portion of the site. An aquifer test is not required for parcels greater than 20 acres in size (LC 13.050(13)(c)(I)).

RCP Goal 11, Public Facilities and Services Policy 6j, requires that Marginal Lands have a service level consistent with the service level for Residential Lands outside a Community designation. Rural Residential Policy 6e requires schools, on-site sewage disposal, an individual water supply system, electrical and telephone service, a rural level of fire and police protection, and reasonable access to solid waste disposal facilities. As previously indicated in Section III. C., the subject property receives a full range of rural residential services necessary to serve the maximum density allowable by the ML zone.

#### C. Lane Code

The Marginal Lands Zone Purpose section (LC 16.214(1)) states the following intent for the ML zone:

(a) Provide an alternative to more restrictive farm and forest zoning.

(b) Provide opportunities for persons to live in a rural environment and to conduct intensive or part-time farm or forest operations.

© Be applied to specific properties consistently with the requirements of ORS 197.005 to 197.430 and the policies of the Rural Comprehensive Plan.

The Marginal Lands Zone (LC 16.214(2)(a)) allows for dwellings or mobile homes to be placed on a vacant legal lot. A land partition is required to create a new parcel before a building permit can

be issued. The proposed rezoning is consistent with the proposed residential and marginal resource use of the subject property. The applicant has provided evidence that qualifies the property as Marginal Lands, in accordance with ORS 197.247. Applicable RCP policies have been addressed. The request is consistent with state statutes and county policies, as indicated by the previous Sections IV. A. and B. The application of the ML Marginal Lands zone accurately describes the capability of the subject property, and provides relief from the more restrictive forest zoning.

Lane Code 16.400(6)(I) provides that "A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment. In such case, the Board shall also make the final zone change decision, and the Hearings Official's consideration need not occur." This application requests a Plan amendment and concurrent zone change from F-2 Impacted Forest Land to ML Marginal Lands.

Lane Code 16.252(2), Procedures for Zoning, Rezoning and Amendment Requirements, provides that "Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals by the Land Conservation and Development Commission.

The purpose section of Chapter 16 of the Lane Code generally consists of a number of broad statements such as: ensuring development is commensurate with the character and physical limitations of the land; protection of the public health, safety, convenience and welfare; and provision for the orderly and efficient transition from rural to urban land use.

This request is intended to redesignate and rezone the subject property with specific land development requirements that more accurately apply to it and its characteristics. The request does not involve or propose an urban land use. Application of a Marginal Lands designation and zone provides a middle ground between land zoned and developed with Rural Residential uses, and land zoned for Impacted Forest Land use. It is appropriately applied where the statutory standards have been affirmatively addressed. Further, the proposed density of one dwelling per 20 acres is consistent with the carrying capacity of the subject property and will not adversely affect any adjacent land uses.

Lane Code 16.400(6) requires that the Planning Commission forward its recommendation to the Board of County Commissioners. An amendment to the Rural Comprehensive Plan is adopted by an Ordinance that provides findings to the following standards

specified by LC 16.400(6)(h)(iii).

(aa) For Major and Minor Amendments... the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning goals and Oregon Administrative Rules.

The applicant has presented information that demonstrates the subject property meets all applicable state standards for a Marginal Lands designation. The property is subject to the Lane County Rural Comprehensive Plan, adopted and acknowledged by LCDC as being in compliance with the Statewide Planning Goals. Applicable Plan policies have been addressed in Section IV.B. above. Notice will be provided by Lane County to surrounding properties as required by LC 14.100(4), and to DLCD as required by ORS 197.610.

(bb) For Major or Minor amendments... the Plan amendment or component is necessary to correct an identified error in the application of the Plan; or necessary to fulfill an identified public or community need for the intended result of the component or amendment; or necessary to comply with the mandate of local, state or federal policy or law; or otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

The proposed amendment is required to change the designation of the subject property from Forest Land to Marginal Lands, as provided by ORS 197.247 and RCP Goal 4, Policy 3. Both these statutory and County policies have been previously addressed.

(cc) For Minor amendments... the Plan amendment or component does not conflict with the adopted policies of the Rural Comprehensive Plan, and if possible, achieves policy support.

All RCP policies that are applicable to this request have been addressed in Section IV. B. above.

(dd) For Minor Amendments... the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The Rural Comprehensive Plan provides for the application of the Marginal Lands designation subject to specific conditions. The proposed amendment is consistent with acknowledged procedures and is compatible with the existing structure of the Plan as previously shown.

This application is classified as a minor amendment, as it

requires only a change to the Plan Diagram and does not require an exception to the Statewide Planning Goals. Minor amendments are also required to address the standards of LC 16.400(8)(c) below.

LC 16.400(8)(c)(I) requires a description of the proposal and its relationship to the Plan. A description of the proposed amendment and its relationship to the Plan is provided above.

LC 16.400(8)(c)(iii)(aa) through (gg) requires an assessment of the probable impacts of the proposed amendment on: the land use and development pattern of the area, availability of services, natural resources and resource lands, natural hazards, and the standards for designation of Marginal Lands as provided in "Working Paper: Marginal Lands".

The ownership and land use patterns of the surrounding area have been previously addressed in Section III. B. above. Surrounding properties are all zoned F-2, with most having similar low farm and forest productivity and marginal soils as the subject property.

As indicated by Exhibit "J", Forest soils, the surrounding area generally has soils that are incapable of producing at least 85 cubic feet per acre per year of wood fiber, and are therefore considered nonresource soils for forest purposes. The closest area with any significant amount of forest soils is located to the northwest of the subject property, and the majority of these lands have been clearcut and converted to grazing use. The parcel directly across Wallace Creek Road from the subject property has not been managed for forest purposes and is still wooded. The next closest area with a significant amount of forest soils is located approximately .8 mile to the northeast of the subject property, and approximately 500 feet higher in elevation.

Exhibit "K", Agricultural soils shows soil types of Class 1 through 4 in the vicinity of the subject property. Concentrations of agricultural soils are located in the valley bottoms of both Wallace Creek and Hills Creek to the south. Both areas have a preponderance of small to moderate sized parcels developed with residences, with the Wallace Creek valley having a substantial amount of uncultivated land, and a limited amount of non-irrigated hay production and grazing for horses and cattle. The majority of the Hills Creek agricultural soils area is uncultivated, with a limited amount of grazing.

The resulting maximum density of one dwelling per 20 acres on the subject property would not appear to adversely affect the use of any adjacent or nearby lands.

The subject property receives all services necessary for rural

residential lands located outside a community (as required by Goal 6, Policy 6j for Marginal Lands). Those services include individual on-site water and sewer disposal, access directly from a county road, utilities, and rural fire protection. There are no identified Goal 5 resources or natural hazards known to exist on the subject property. The applicant has demonstrated the proposal is consistent with the Marginal Lands standards outlined in the Working Paper.

#### V. CONCLUSION

The subject 43.39 acre property primarily consists of mowed grasslands, with a strip of riparian vegetation bordering Wallace Creek on the west, one relatively small stand of Douglas fir on the south, and another small stand of Oregon white oak on the east. A forest evaluation of the subject property by a professional forester indicates the site is marginal for timber production due to poor soils. Under 10 percent of the property is capable of producing any cubic feet of merchantable timber per year. Over 52 percent of the subject property is composed of Class 6 or higher agricultural soils.

The property was not managed between 1978 and 1983 as part of a farm operation capable of producing \$20,000 or more in annual gross income, or part of a forest operation capable of producing over \$10,000 in annual gross income over the growth cycle. The property receives a full range of rural services, including rural fire protection and direct access from a County road. The 20 acre minimum lot size required by the Marginal Lands zone will allow creation of one additional parcel on the subject property. This lot size will be of sufficient size to provide adequate separation from adjacent lands and will be compatible with the low-intensity grazing and rural residential uses in the vicinity. No commercial farm or forest operations have been identified in the immediate vicinity of the subject property.

The proposed minor plan amendment and concurrent rezoning has addressed all applicable criteria of the Lane Code, Rural Comprehensive Plan, and ORS 197.247, and is consistent with the Board of Commissioners interpretation and administration of the Marginal Lands designation. Therefore, the applicant requests the Planning Commission and Board approve this request to redesignate and rezone the subject property as Marginal Lands.

#### VI. ATTACHMENTS

Exhibit "A"	Plot Plan
Exhibit "B"	PA 1035-97
Exhibit "C"	SCS Map Sheet #92

Leith Plan Amendment/Zone Change

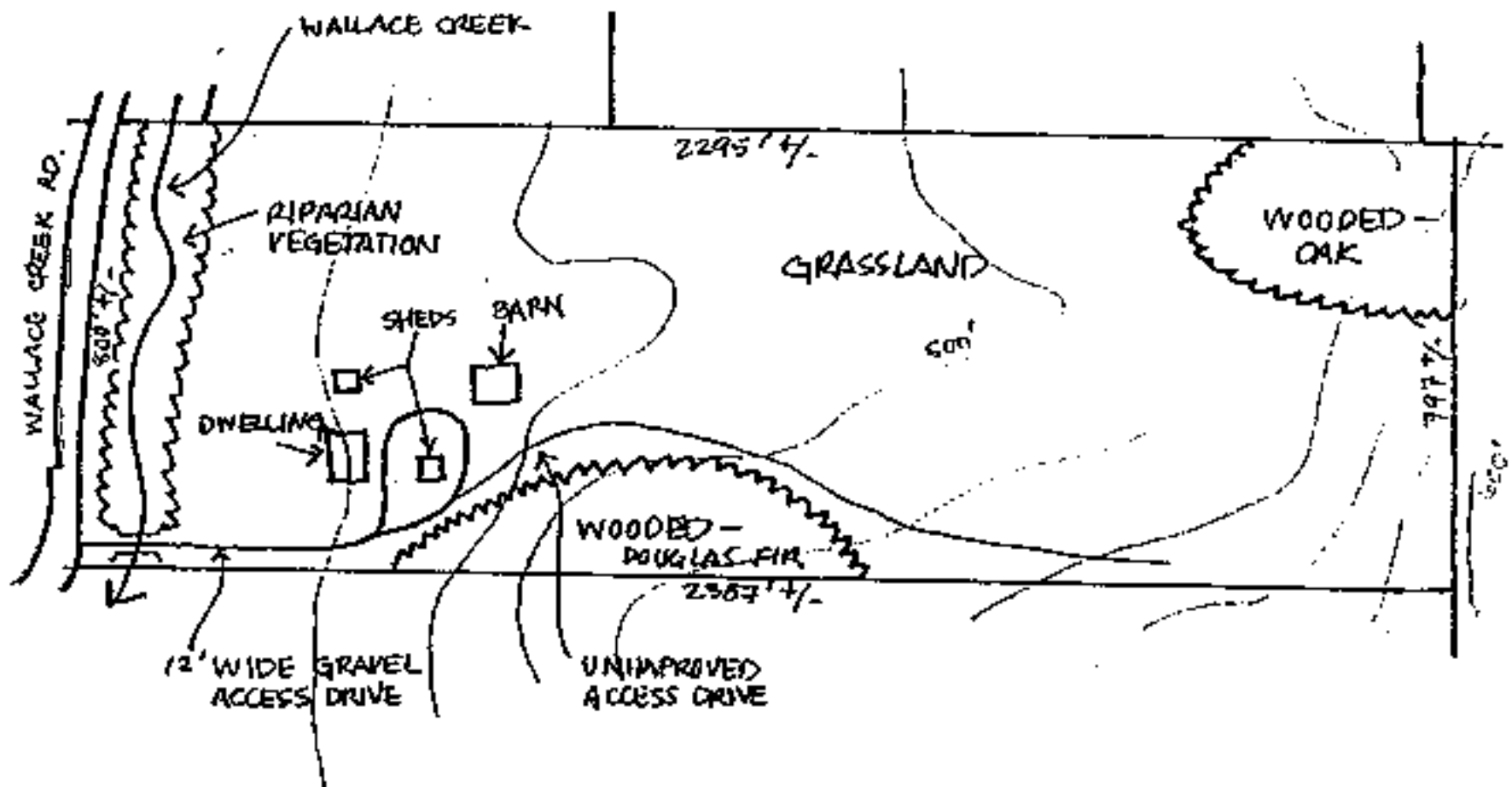
Page 14

Exhibit "D"	LCOG soils analysis
Exhibit "E"	National Wetlands Inventory Map Springfield 4
Exhibit "F"	Lane County Wildlife Inventory
Exhibit "G"	FIRM Map 630
Exhibit "H"	Affidavit
Exhibit "I"	Forest assessment
Exhibit "J"	Forest soils
Exhibit "K"	Agricultural soils
Exhibit "L"	Assessor's map
Exhibit "M"	Zoning map #483



N

1" = 400'



ALL LOCATIONS OF IMPROVEMENTS ARE APPROXIMATE

**Plot Plan for Ann Leith  
Map 18-02-14, Tax lot 1000**

**Exhibit "A"**



# Land Use Application



REQUEST / PROPOSAL FOR:

COUNTY LEGAL LOT VERIFICATION

FILE NO.	1035-97
ACTION	INDUSTRY

LOCATION (PLEASE PRINT)

18 2 14 01000  
 TOWNSHIP RANGE SECTION 1/4 SECTION TAX LOT SUBDIVISION / PARTITION LOT / PARCEL BLOCK

F2/FP/RCP 1-13 # 483 43.39  
 ZONED TAX CODE PLOT # ACERAGE

36840 WALLACE CREEK ROAD, SPRINGFIELD, OR 97478

LOCATION ADDRESS

1 DWELLING, 1 BARN, 4 OUTBUILDINGS

STRUCTURES NOW ON PROPERTY

APPLICANT / AGENT

ANN L. LEITH

NAME (PLEASE PRINT)

4/17/97

DATE

36840 WALLACE CREEK RD.

ADDRESS

(541) 744-2805

PHONE

SPRINGFIELD, OR 97478

CITY

ZIP

OWNER (same)

NAME (PLEASE PRINT)

DATE

ADDRESS

PHONE

CITY

ZIP

DO YOU OWN ADJACENT PROPERTY? Yes  No

MAP, PARCEL NUMBER

WATER PUBLIC  ON-SITE WELL

COMMUNITY SYSTEM

SEWAGE PUBLIC  ON-SITE SEPTIC

COMMUNITY SYSTEM

ROAD STATE  COUNTY

PUBLIC

EASEMENT

FIRE DISTRICT PLEASANT HILL

SCHOOL DISTRICT PLEASANT HILL

POWER COMPANY EPUD

PHONE COMPANY U.S. WEST COMMUNICATIONS

Township	Range	Section	1/4 Section	Tax Lot

I (We) have completed all the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) so authorized to submit this application as evidenced by the signature of the owner below.

Ann L. Leith 4/17/97

OWNER Signature

Date

Ann L. Leith 4/17/97

APPLICANT Signature

Date

**An accurate Plot Plan must be attached. Ask for a sample Plot Plan**

SPECIFIC SECTION OF LANE CODE REQUIRING THIS APPLICATION

RELATED PERMIT #

STAFF COMMENTS:

LEGAL LOT

WALLACE CREEK RD PROVIDES

LEGAL BOUNDS

EXHIBIT 'B'

Don 5/22/97



Date: MAY 21 1997

APPLICANT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OWNER: ANN LEMTA  
36840 WALLACE CREEK ROAD  
SPRINGFIELD, OR 97413

PA: 1035-97

RE: Report and Verification of a Legal Lot  
Tax Map: 18-02-1A-00 Taxlot: 1000

A more exact description by reference to Deed or Land Sales Contract  
is BOOK 205 PAGE 258

Based upon the Findings provided in this report, the above referenced property  
constitutes a legal lot, which means:

1. Ownership to this property may be conveyed with the assurance that such a conveyance would not require approval by Lane County land division regulations; and
2. Lane County recognizes this property as a legally separate unit of land for the purposes of development. Development would still be subject to applicable zoning, sanitation, access and building regulations.

#### Findings

1. The subject property was created as a separate parcel on  
MAY 21 1940  
See attached instruments BOOK 205 PAGE 258
2. The creation of the subject property as a separate parcel complied with all effective land division, zoning and comprehensive plan regulations, and it therefore constitutes a legal lot:

a. Land division regulations:

When the subject parcel was created, there were not land division regulations in effect to govern its creation. Lane County did not adopt applicable regulations for this kind of division until MARCH 1975

There were land division regulations in effect governing the creation of this parcel, and the creation of this parcel was specifically exempted by these regulations from compliance because \_\_\_\_\_



b. Zoning regulations:

- When the subject parcel was created, there were no zoning regulations in effect at this time. The zoning for this property was adopted on NOV. 1975.
- When the subject parcel was created, there were the following zoning regulations in effect which the parcel complied with because \_\_\_\_\_

c. Additional Comments:

THE ORIGINAL PARCEL AS CONVEYED ON BOOK 205 PAGE 258, ENCLOSED WAS REDUCED IN SIZE IN OCT 1963 FOR THE ESTABLISHMENT OF TL 1001, SEE PERM 582-12/9522. THE REMAINDER BEING TL 1000 IS A LEGAL LOT. COUNTY ROAD NUMBER 42, COMMONLY KNOWN AS WALLACE CREEK, PROVIDES LEGAL ACCESS.

"This is a preliminary indication that the above referenced property, as further designated on the enclosed map, is a legal lot. The decision that this property constitutes a legal lot will be made at the time of the first permit or application action where a legal lot is required. If the boundaries of this legal lot have changed at the time of a permit or application which requires a legal lot, a new Legal Lot Verification will be required."

Sincerely,

D. G. NICKELL P.L.S.O.  
Engineering Associate  
541-682-3989

ATTACHMENTS

CC: TRS File

SHEET "92

130

1020C

WALLACE  
SUBJECT  
PROPERTY

130

1080

1020

14

450

52D

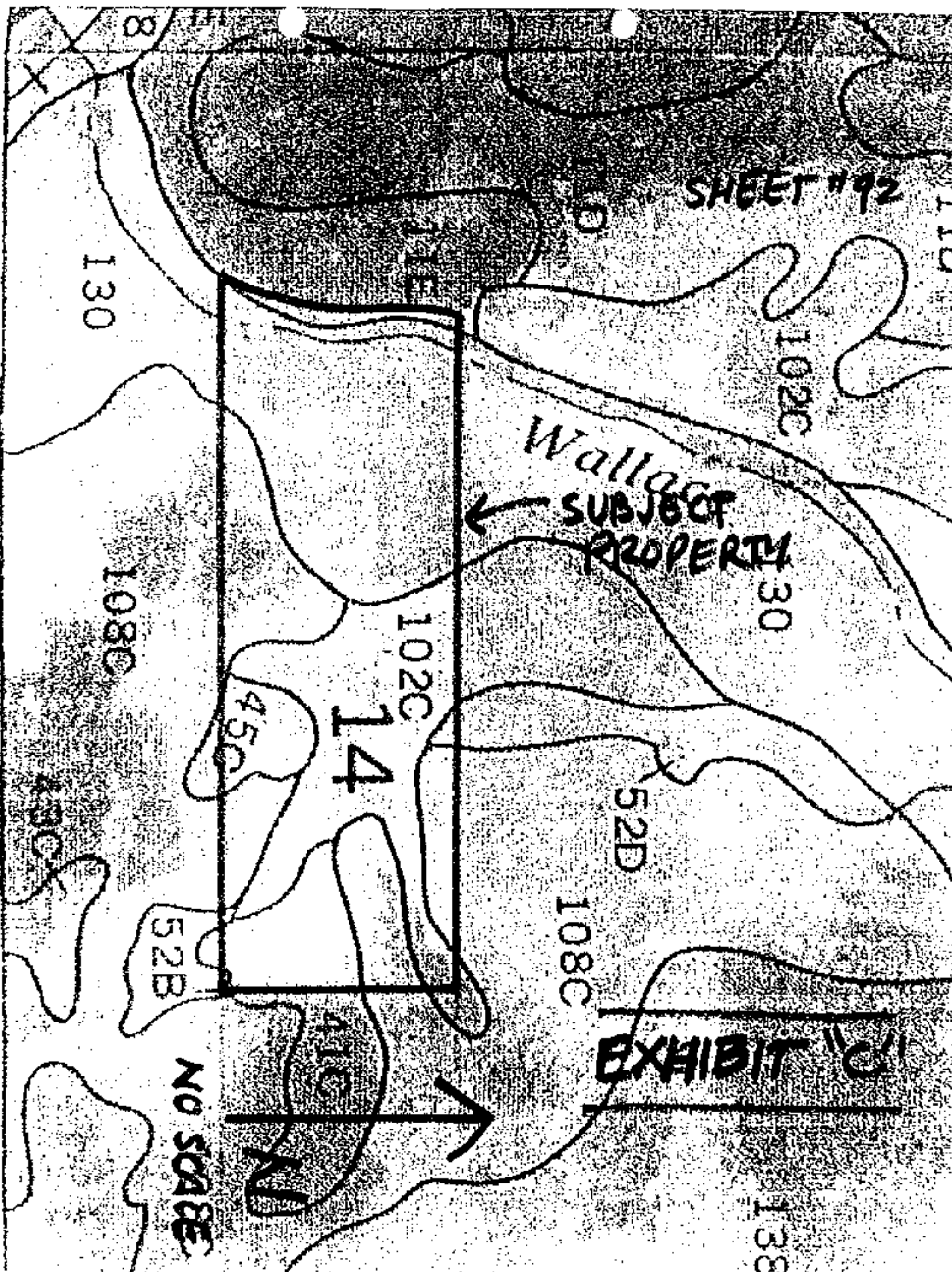
1080C

52B

EXHIBIT "C"

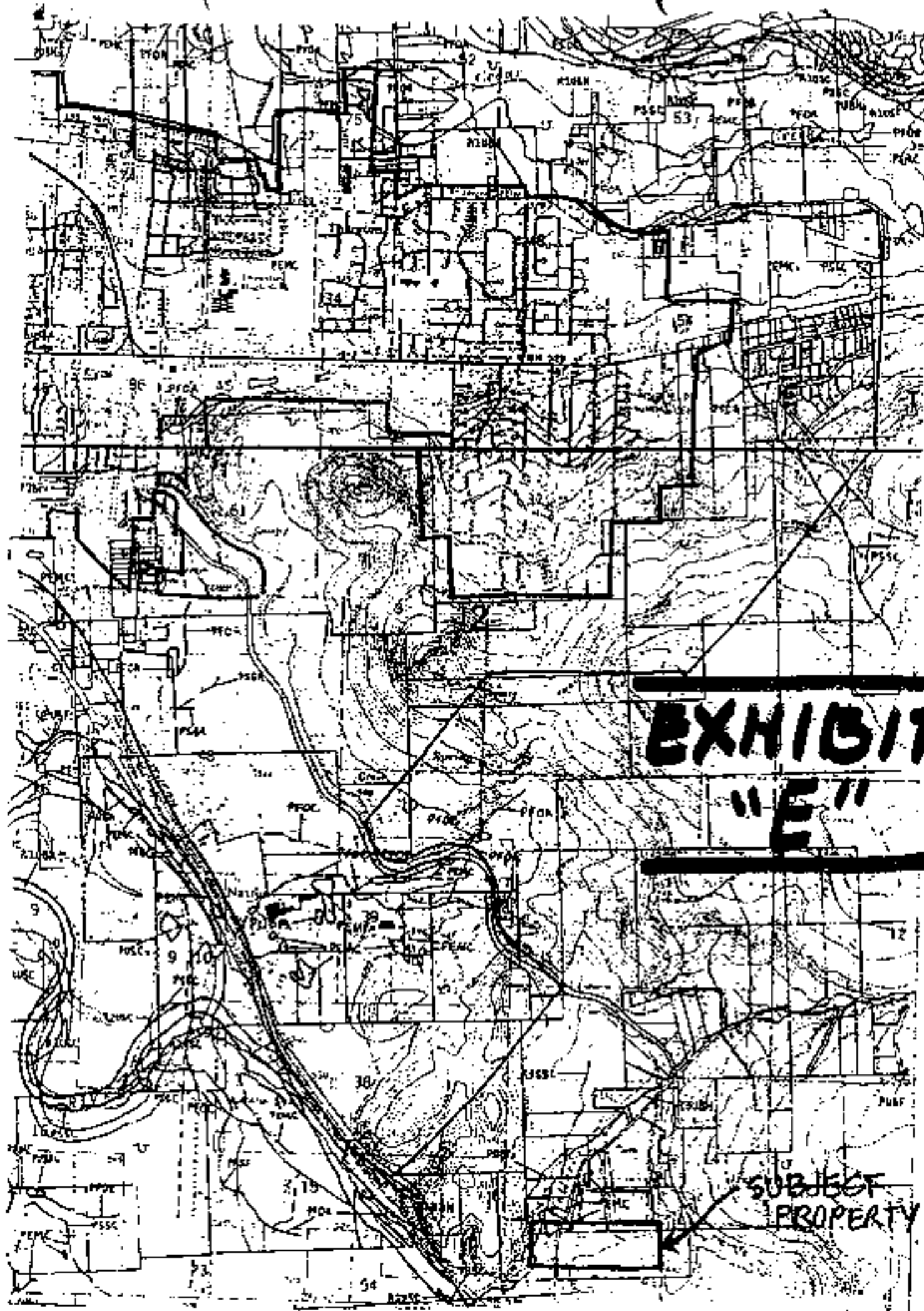
NO SCALE

1380





MAP UNIT SYMBOL	AREA IN ACRES	PERCENT	SOIL NAME	COMPONENT NAME	AGRICULTURAL CAPABILITY CLASS
130	14.351	33.570	WALDO SILTY CLAY LOAM	WALDO	3
102C	11.929	27.905	PANTHER SILTY CLAY LOAM, 2 TO 12 PERCENT SLOPES	PANTHER	6
52D	0.392	0.917	HAZELAIR SILTY CLAY LOAM, 7 TO 20 PERCENT SLOPES	HAZELAIR	4
108C	10.356	24.226	PHILOMATH COBBLY SILTY CLAY, 3 TO 12 PERCENT SLOPES	PHILOMATH	6
41C	3.901	9.126	DIXONVILLE SILTY CLAY LOAM, 3 TO 12 PERCENT SLOPES	DIXONVILLE	3
45C	1.808	4.228	DUPEE SILT LOAM, 3 TO 20 PERCENT SLOPES	DUPEE	3
52B	0.012	0.028	HAZELAIR SILTY CLAY LOAM, 2 TO 7 PERCENT SLOPES	HAZELAIR	3

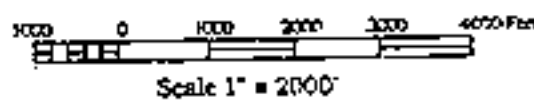


**EXHIBIT**  
**"E"**

SUBJECT  
PROPERTY

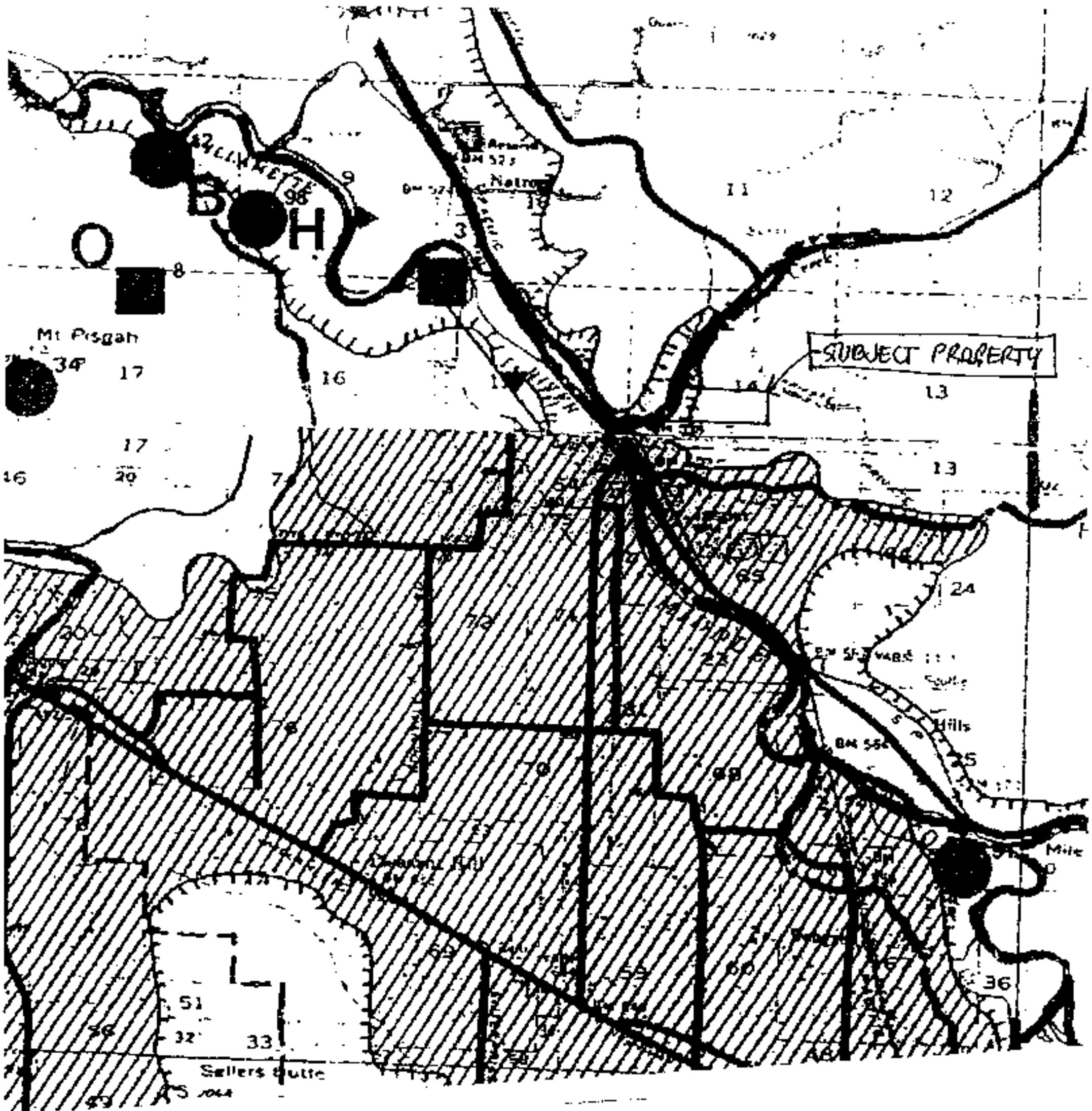


PARCEL-BASE  
MAPS  
(Use with  
National  
Wetlands  
Inventory)



Springfield 4

Springfield 4



**EXHIBIT "F"**



AFFIDAVIT

STATE OF OREGON )  
County of Lane ) ss.

I, Kay LaJoie, being first duly sworn, depose and say that:

1) I am the daughter of Clarence and Ruby LaJoie, former owners of a 43.39 acre parcel identified on Assessor's Map 18-02-14, tax lot 1000, with an address of 36840 Wallace Creek Road, Springfield, Oregon 97478. My parents owned the above referenced property between the period of January 1, 1978 and January 1, 1983.

2) My mother passed away in 1990 and my father passed away in 1993. I was the executor of their estate. They resided on the above referenced property between approximately 1941 and 1990.

3) To the best of my knowledge, during the five calendar years preceding January 1, 1983 my parents did not manage the property as part of a farming operation that produced \$20,000 or more in gross annual income, or as part of a forest operation capable of producing, over the growth cycle, of \$20,000 in annual gross income.

4) During the period from January 1, 1978 to January 1, 1983 my parents sold a limited amount of hay and cattle raised on the property. To the best of my knowledge, these operations were considered a hobby and produced a relatively small amount of income. My parents did not rely on income from the property as my father had a job in town.

The above information is true as I verily believe.

Dated this 23 day of September, 1998.

Kay LaJoie  
Kay LaJoie

Subscribed and sworn to me this 23 day of SEPTEMBER, 1998.

Carol Culver  
Notary Public for Oregon  
My commission expires: 9-3-2002



**GARY L. THOMPSON**  
**Forestry/Business Consultant**

2650 Garfield Street  
 Eugene, Oregon 97405  
 (541)683-5848  
 (541)683-5415(fax)

**INDUSTRY**

Operational Consulting  
 Financial Analysis  
 Real Estate Sales

**FORESTRY**

Timber Cruising  
 Forest Management  
 Logging Management

March 25, 1998

To: Ann Leith  
 36840 Wallace Creek Rd  
 Springfield, Oregon 97478

Subject: Timber Productive Capability

Parcel: T18S, R2W, Sec 14 Lot 1000

As per your request a review of the soil types and an analysis of the timber productive capabilities of the aforementioned parcel has been done. Based on personal examinations, portions of this parcel are such that they would support a low productive merchantable stand of timber.

The soil types are detailed in the "Soils" appendix. According to the Lane County SCS Soils analysis, approximately 4 acres of the 43.3 acres are a soil type that is suitable for the production of a stand of timber.

The overall site index of the soils that are suitable for the production of timber is a 120 based on the SCS Soils analysis. Under intensive forest management, the 4 acres could produce about 128 MBF of timber over a 50 year rotation cycle.

In order to evaluate or estimate the board foot of timber production per acre, per year on this tract, the property was physically examined on the ground to confirm the soils types. With this information, two separate volume and yield tables or models were used to estimate and compare what the timber stands that would grow on the suitable soils may be capable of producing.

Based on these models and tables, the parcel will produce between 660 board feet per acre per year on the suitable soils. The cubic foot production per acre per year to a four inch top based on both yield models for timber productive portions of the property would be about 175 cubic feet. The remaining land is unsuitable for the production of timber due to the type of soils.

**EXHIBIT "I"**

\* M.B.A. Forest Industry Management  
 \* B.S.F. Timber Management

### Analysis

The parcel size is about 43 acres, of which about 4 acres are suited for timber production. The remaining land is not suitable for timber production due to the shallow, heavy clay based soils, that have low moisture retention, shallow with sub-surface rock

### Volume Production

The evaluation of productive capabilities of the soil type was done by a field examination of existing soil conditions as well as a photo analysis of the property.

The projected volumes were determined by using the volume and yield tables of the Dept of Natural Resources of the State of Washington, volume and yield tables developed by the State of Oregon, through Oregon State University and the Stand Projection System (SPS) model available through Mason, Bruce and Girard, Inc. Consulting Foresters, Portland, Oregon.

Based on this evaluation, it is my opinion that the acres that are suited for timber production, would produce timber on an annual bases to age 50 of about 660 board feet per acre per year.

The entire parcel was examined to determine an average cubic foot production per year. Removing the portions of the property that are not suitable for timber production, the parcel on an average would produce about 175 cubic feet per acre per year based on the SCS soils analysis and site class volume and tables.

### Annual Gross income:

Based on 1983 prices for Douglas Fir at \$220/MBF, it is estimated that the parcel will produce a total gross income of about \$28,160 over the 50 year cycle. This is about \$560 gross income per year.

### Timber Management.

The estimates of volume production are assuming that the timber producing portions of the parcel could be planted in such a manner that 80% of the parcel is stocked.

### Data Verification

Data in this report was developed through available professional publications, volume tables and site index tables included herein and made part of this report.

93/25/1998 11:06

FROM L. THOMPSON

TO 93349

P. 03

Sources

Empirical Yield Tables for the Douglas Fir Zone, Washington  
Department of Natural Resources.

Oregon Dept of Forestry, Volume and Site Index tables.

Site index yield tables, 100 year and 50 year rotations

State of Washington, Dept of Natural Resources, Tariff Access  
Tables for Douglas Fir.

Stand Projection System (SPS) model; Mason, Bruce and Girard, Inc.  
Consulting Foresters, Portland, Oregon.

Lane County SCS soils maps and publication

Oregon Dept of Forestry Quarterly prices for 1983

Comments:

All tables developed for the projected yields from various  
soils are based on average or mean soil types. Verification of the  
projections, growth rates etc can only be done by direct field  
examinations.

If you have any questions, please contact me.

Respectfully;

Gary L. Thompson



# AGRICULTURAL SOILS

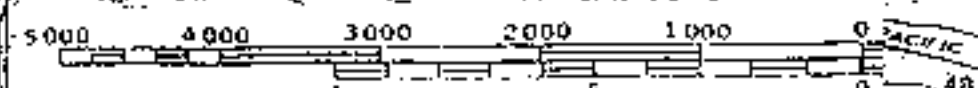
CLASS 1 THROUGH 4

SHEET 227

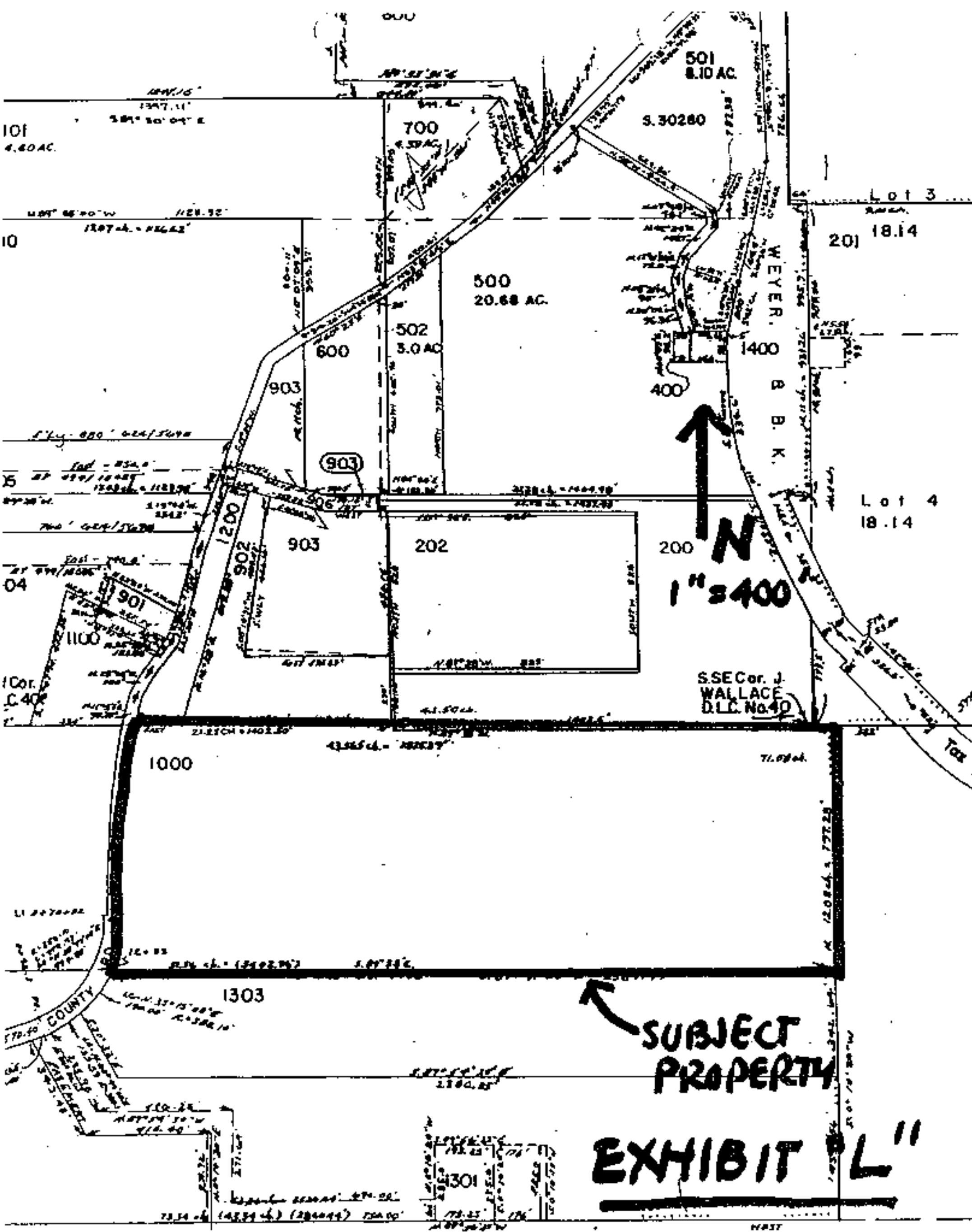
SUBJECT PROPERTY

EXHIBIT "K"

SHEET 104



(from sheet 21)



↑  
N  
1" = 3400'

← SUBJECT PROPERTY  
EXHIBIT "L"

101  
4.60 AC.

10

15

04

100  
C. 40

1000

1303

1301

700  
4.33 AC.

500  
20.68 AC.

502  
3.0 AC.

501  
8.10 AC.

S. 30280

201  
18.14

Lot 4  
18.14

S. SEC. J.  
WALLACE  
D.L.C. No. 40

71.08 ac.

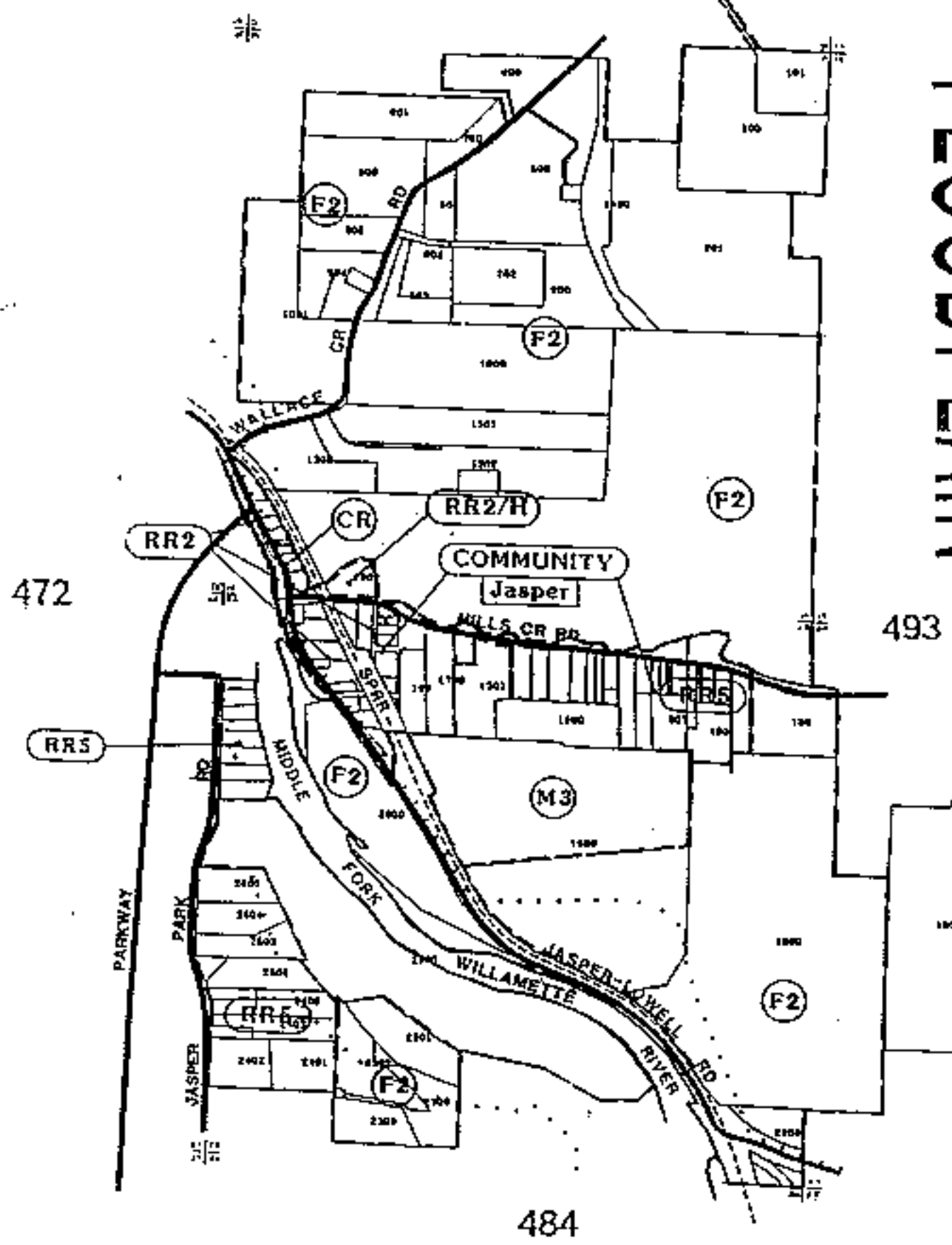
SUBJECT PROPERTY

EXHIBIT "L"

79.61 ac.

482

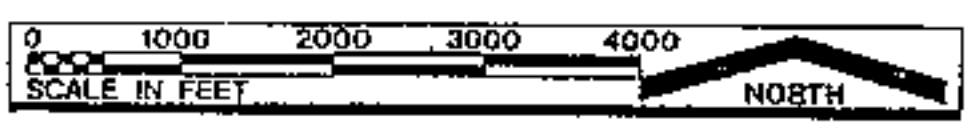
# FLOODPLAIN



472

493

484



## EXHIBIT "M"



**OFFICIAL ZONING MAP**

**PLOT# 483**

Township Range Section  
 18 02 14 / 18 02 23

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #